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File No. P.S.C./41.

Legal DEPARTMENT

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Subject:—

Orders and References relating to the

Public Service Commission.

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File No. P.S.C./41

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Copy of a letter from the Secretary, Bombay-Sind Public Service Commission, No.517, dated the 21st December 1940

Subject :- Promotions from Subordinate to Gazetted posts.

--X--

I am directed to state that, as in accordance with the instructions issued in Government endorsement No.1713/34-D, dated 30th August 1937, the Commission have to examine and consider the claims of all officers, and not only of the particular officer of officers whom the Secretariat Department nominate for promotion, they consider it necessary that a seniority list of officers serving in the subordinate services shluld be forwarded to them. I am accordingly to request you to instruct the Secretariat Department to forward to the Commission an up to date printed seniority list whenever proposals are forwarded are to the Commission.

No. 1713/34-D

Political and Services Department,

Bombay Castle, 1st February 1941.

Forwarded to all Departments of the Secretariat (except the Separate Department) for favour of remark at an early date on the proposal made by the Commission.

By order of the Governor of Bombay,

Sd.-

For Chief Secretary to the Government of Bombay

Political and Services Department.

K.N.P.
22/5
4.C.

No. 2263

Legal Department.

Bombay Castle, 14th March 1941.

Subject:- Promotions from Subordinate to Gazetted posts.

MEMORANDUM.

The undersigned presents compliments to the Chief Secretary to the Government of Bombay, and with reference to his endorsement No.1713/34-D, dated the 1st February 1941, on the above subject, is directed to state that this Department has no objection to accepting the proposal made by the Bombay-Sind Public Service Commission.

By order of the Governor of Bombay.

Sd/-

for Secretary to the Government of Bombay.

To

The Chief Secretary to the Government of Bombay,
Political and Services Department.

K.M.P.
22/5
A.C.

Below copies of -

(a) Government Letter, Political and Services Department , No. 1536/34-D, dated the 22nd November 1940, to the Secretary, Bombay-Sind Public Service Commission;

(b) Letter from the Secretary to the Commission No.347, dated the 6th December 1940; and

(c) Political and Services Department notes, dated the 23rd December 1940.

-----x-----

No.1536/34-D.

Political and Services Department,
Bombay Castle, 8th January 1941.

Forwarded to all Departments of the Secretariat (except the Separate Department) with reference to Government Endorsement, Political and Services Department, No.1536/34-D dated the 1st July 1940, for remarks on the amendments suggested by the Commission to the procedure to be adopted for enforcing the age-limits prescribed for the purposes of recruitment to the services and posts in connection with the affairs of the Province.

By order of the Governor of Bombay,

Sd.-

For Chief Secretary to the Government of Bombay,
Political and Services Department.

K.M.P.
22/5

4.E.

Copy of Government Letter, Political and Services Department, No.1586/34-D, dated the 22nd November 1940 to the Secretary, Bombay-Sind Public Service Commission.

Subject:- Recruitment.
Procedure for enforcing prescribed age-limits.

-x-

"With reference to the correspondence resting with my letter No.1586/34/17782-D dated the 4th October 1940 on the subject noted above, I am directed to state that in consultation with the Departments of the Secretariat it is proposed to adopt the following procedure for enforcing the prescribed age-limits in respect of the services and posts to which recruitment is made through the Public Service Commission:-

(1) Departments should specify the age-limit in the Requisition in all cases in which it is not laid down in the Rules;

(2) the Commission should enforce strictly, save as provided in (3) below, the age-limits laid down in the Rules or the Requisition;

(3) Where, in any particular case, it appears to the Commission that there will be little or no response to the advertisement or that suitable candidates within the prescribed age-limited will not be forthcoming unless the age-limit prescribed in the Rules or the Requisition is relaxed, it may suggest to the Department that some latitude should be allowed in the matter of age in the case in question and, if the Department concurs, state in the advertisement that "the age-limit may be relaxed by Government if necessary". It is believed that the above procedure, while reserving the power of relaxation to Government, would give the necessary latitude to the Commission. The more general the provision in the advertisement and the simpler the procedure which the Commission has to follow in such cases, the easier will it be to work the procedure in practice.

2. I am to enquire whether the Commission has any objection to the proposed procedure being adopted."

Copy of a letter from the Secretary, Bombay-Sind Public Service Commission, No.347, dated the 6th December 1940.

Subject :- Recruitment
Procedure for enforcing prescribed age-limits.

"I am directed to refer to your letter No.1586/34-D, dated the 22nd November 1940, regarding the procedure for enforcing the prescribed age limits, and to state that the Commission accept provisionally the proposals of Government made in your letter. I am, however, to suggest that clauses (1) and (3) shall not be held to preclude the departments of the Secretariat from specifying in their requestions to the Commission that the age limit may be relaxed by Government, if necessary, in the case of candidates possessing superior qualifications and/or experience, as experience shows that such latitude is generally desirable in the case of specialist or technical appointments. This will save the time that would otherwise be taken up by the Commission making a reference back to the Secretariat department concerned. The Secretariat departments are generally in the best position, on the advice of the Heads of Departments, to know beforehand whether in particular cases the response to an advertisement is likely to be adequate or not. If Government agree to this proposal, I am to suggest that the following sub-clause (b) should be added to clause 15 of the requisition form, which should be renumbered as sub-clause(a.

"Would the age limit be relaxed by Government, if necessary, in the case of candidates possessing superior qualifications or/and experience?"

If the answer to this question given by the department be in the negative, the Commission would ordinarily be guided by the opinion of the department and would only in every exceptional circumstances refer the question back to the department before issuing its advertisem/ent. "

Copy of Political and Services Department notes, dated the 23rd December 1940

Submitted with reference to Government Letter, Political and Services Department, No.1586/34-D dated the 22nd November 1940.

2. The three clauses setting forth the proposed procedure for enforcing the prescibed age limit in respect of services and posts to which recruitment is made through the Public Service Commission are:-

(1) Departments should specify the age-limit in the Requisition in all cases in which it is not laid down in the Rules;

(2) The Commission should enforce strictly, save as provided in (3) below, the age limit laid down in the Rules or the Requisition;

(3) Where in any particular case, it appears to the Commission that there will be little or no response to the advertisement or that suitable candidates within the prescribed age-limit will not be forthcoming unless the age-limit prescribed in the Rules or the Requisition is relaxed, it may suggest to the Department that some latitude should be allowed in the matter of age in the case in question, and if the Department concurs, state in the advertis ement that "the age-limit may be relaxed by Government if necessary" The Commission has accepted procisionally these proposals. It, however, suggests "that clauses (1) and (3) shall not be held to preclude the departments of the Secretariat from specifying in their requisitions to the Commission that the age-limit may be relaxed by Government, if necessary, in the

case of candidates possessing superior qualifications and/ or experience, as experience shows that such latitude is generally desirable in the case of specialists or technical experts."

3. The draft proposals are so worded as not to leave to the department concerned while sending its requisition to the Public Service Commission to specify "that the age-limit may be relaxed by Government if necessary " that-tht is the Public Service Commission which has to take the initiative and suggest to the department concerned, where in any particular case, it appears to that body that there will be no response to the advertisement or that suitable candidates within the prescribed age-limit will not be got forth-coming unless the age-limit prescribed in the Rules or Requisition is relaxed, thats some latitude should be allowed in the matter of age in the case in question; This procedure, the Commission holds, would involve loss of time as it would require the Commission to make a reverence back to the Secretariat Department conferned. The Commission, therefo suggests that the following sub-clause (b) should be added to clause 15 of the requisition from, which should be re-numbered as sub-clause (a):-

The Head of Department Concerned would be the more appro priate per son to decide as to this point talk as arises most wholly the case specialist is technical PBintments, I.d. V.N.

"Would the age limit be relaxed by Government if necessary, in the case of candidates possessing superior qualifications or/and experience? "and., adds that if the answer to this question given by the Department be in the negative, the Commission wouldordinarily be guided by the opinion of the Department and would only in very exceptional circumstances refer the question back to the Department before issuing its advertisement.

4. It is no clear what the Commission means when it says that the proposed procedure is accepted procisionally Is it the suggestion that it should be reviewed after the experience is gained as to its application in actual practice

and

Yes id V.V.K.

(and that this review should be undertaken at the instance (of the Commission or of any one or more of the administrative (Departments. It seems desirable to invite the Commission (to make this point clear.

5. Dealing with the specific suggestions made by the Commission, there seems no reason why any further latitude in respect of age should be given. Clause (3) is intended to provide for specific cases, particularly those relating to appointments to technical and specialist posts. There can be no question of relaxing the age limit specified in the requisition clause (1) or in the recruitment rule clause 2, or the score of superior qualifications and/or experience. It is true that the qualifications prescribed in a rule or where no rule exists, in a requisition are minimum, but it is also true that the prescribed or specified age-limit is the maximum. There would be no meaning in prescribing the maximum age limit if it should be relaxed on the ground that older candidates with higher qualifications or greater experience are available. Such candidates are always available, since with the advance of age experience necessarily increases and superior qualifications are also obtained by many candidates in the hope of competing successfully with younger recruits. On the whole, therefore, it would not be wise to accept either of the suggestions made by the Commission. Clause (3) is sufficiently elastic and sufficient for the object in view.

6. The procedure which has been approved by all Departments, may, therefore, now be finally approved and circulated to all concerned.

Id. A.G.E.
19-12-40

Id. C.K.M.
29-12-40

D.S.

The two issues that have been raised in this case are as follows:-

(10

(1) whether the present practive of the Public Service Commission of recommending in special cases overage candidates on the gecund that the posts for which recruitment is being made are specialist posts, that the candidates - recommended are the best qualified and the most suitable and that there are no suitable candidates within the age limit prescribed, is strictl y regular i.e., in accordance with the ryles;

(2) Whether such a procedure, even admitting that it is not really objectionable on the technical ground that it is not strictly in accordance with the rules, is quite fair to those other candidates who abstained from applying for such posts on the ground that they are overage.

As regards the first issue, the Public Service Commission have pointed out that under Notes 1 and 2 below rule 7 of the Bombay Civil Services Recruitment Rules Government have reserved to themselves the power to condone theage limit and the appointing authority is required to give full reasons before an overage candidate is appointed with the previous approval of Covernmeam (where the appointing - authority is not Covernmernment) and where Coverument itself is the appointing authority, spefial reasons have to be recorded in writing by Government. That being so, in orderr to comply with these conditions, the Commission has perforce to consider the respective merits of the candidates i.e. those within the age limit and those who exceed the age limits as otherwise it would not be feasible to judge the relative merits of candidates and it would not be possible for Government to exercise its discretion of appointing the most suitable candidate for the particular specialist post irrespective of the normal age limits. Hence the procedure followed by the Commission though it may not be within the letter of the rules themselves, cannot be regarded as really objectionable from the point of view of practical considerations above all the desirability of appointing the most

suitable

suitable candidate for the particular post concerned . The Commission also made enquiries of the Federal Public Service Commission and the Public Service Commissions in one or two other provinces and the replies received show that a similar question had arisen in practive elsewhere and that attempts have been made to meet the difficulty very much on the lines adopted by the Commission in this province.

As regards the second issue, the Commission are of the opinion that though conscientious and scrupulous candidates who are over the age limits or those who are reluctant to hazard and incur the expense of a long journey may refrain from applying on the understanding that the age limit would not be relaxed, this objection is theoretical rather than real as experience shows that few candidates have refrained from applying for the post advertised by the Commission on this ground.

The above replies from the Commission were not regarded as quite satisfactory in this Department and therefore the other administrative departments and the Commission itself were addressed with regard to the modifications of the present procedure in the manner explained in paragraph 2 of the foregoing office note. The Departments have approved of the modified procedure proposed; The Commission also have - accepted the proposals provisionly . They however suggest that departments should not be precluded from specifying in their requisitions to the Commission that the age limit may be relaxed by Government if necessary in case of candidate s possessing superior qualifications and/or experience as past experience shows that such latitude is desirable in the acase of specialist or technical posts. The main reasons for giging this latitude to the administrative departments are (1) the delay which would be involved in requiring the Commission to make a reference back to the Secretariat department concerned would be avoided and (2) that the Secretariat Departments on the advice of the Heads of Departments (and not the Public Service Commission are in the best position to decide whether

whether the relaxation of the age limits would be desirable in particular cases. The Commission have actually suggested the addition of a sub-clause in clause 15 of the requisition form apparently on the presumption that Government would have no objection to their suggestion regarding the latitude to be allowed to the administrative departments.

The suggestion made by the Commission appears to me a fair compromise between the two extreme views viz. (a) making a fetish of age limits, especially in the case of specialist posts where it is not possible to foresee and prescribe suitable limits to cover all conditions and times and (b) indiscriminate relaxation of age limits in a large number of cases on the sole ground of superior qualifications and experience, the Commission's suggestion would have the effect of drawing the attention of the Head of the Department - specially to the question of age limit and would give him the opportunity of reviewing the existing conditions with regard to the available supply of qualified candidates with reference to the particular post to be advertised and thus serve as a corrective to the rigid enforcement of age limits which might have been laid down some years previously when conditions were different and the present position could not be accurately anticipated. I would therefore urge that the suggestion should be accepted by Government. Before however, the case is submitted to Government for orders, it would be desirable to consult the Administrative Departments in regard to the Commission's suggestion.

Id. V.V.N.(adkarni),
23/12/40.

Id. G.F.S.(ollins),
27/12/40.

K.N.P.
23/5
A.C.

No. 1783

Legal Department.

Bombay Castle, 25th February 1941.

Subject:- Recruitment.
Procedure for enforcing prescribed age-limits.

MEMORANDUM.

The undersingned presents compliments to the Chief Secretary to the Government of Bombay, Political and Services Department, and with reference to his endorsement No.1586/34-D, dated the 6th January 1941, on the above subject, is directed to state that this Department agrees with the Deputy Secretary, Political and Services Departments that the suggestions of the Bombay-Sind Public Service Commission in their letter No.347, dated the 6th December 1940 may be accepted by Government.

By order of the Governmem of Bombay,

Sd.-

For Secretary to the Government of Bombay,
Legal Department.

To

The Chief Secretary to the Government of Bombay,
Political and Services Department.

K.M.P.
23/5
4.C.

No.1586/34-D.
Political and Services Department
Bombay Castle, 5th August 1941.

From

G.F.S. Collins, Esquire, C.S.I., C.I.E., O.B.E., I.C.S.,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Secretary,
Bombay-Sind Public Service Commission.

Subject:- Recruitment.

Procedure for enforcing prescribed limits.

---x---

Sir,

With reference to the correspondence ending with your letter No.347, dated the 6th December 1940, I am directed to state that Government has approved of the following procedure for enforcing the prescribed age-limit in respect of services and posts to which recrutment is made through the Bombay-Sind Public Service Commission :-

(1) the Administrative Departments should specify the age-limit in the requisition sent to the Commission, in all cases in which it is not laid down in the rules;

(2) the Commission should enforce strictly, save as provided in (3) below, the age limit laid down in the relevant rules of the requisition;

(3) where, in any partic-ular case, it appears to the Commission that there will be little or no response to the advertisement or that suitable candidates within the prescribed age-limit will not be forthcoming unless the age limit prescribed by the rules or specified in the requisition is relaxed, the Commission may suggest to the Department concerned that some latitude should be allowed in the matter of age in the case in question and, if the Department concurs, state in the advertisement that "the age-limit will be relaxed by Government, if necessary". Similarly, when a Department considers that in a particular case the age-limit prescribed by the rule or specified in the requisition may be relaxed by

by Government , if necessary, in favour of candidates with exceptionally good qualifications or/and experience, it may instruct the Commission to frame the advertisement accordingly.

2. I am to add that Government has no objection to the inclusion of the following clause as sub-clause (b) to clause 15 of the Form of Requisition which was circulated with your letter No.83, dated the 26th August 1937:-

"Would the age limit be relaxedd by Government, if necessary, in the case of candidates with exceptionally good qualifications or/and experience ?"

I have the honour to be,
Sir
Your most obedient servant,

J.Chaves,

For Chief Secretary to the Government of Bombay,
Political and Services Department.

No.1586/34-D
Political and Services Department.
Bombay Castle, 5th August 1941.

Copy forwarded for information and guidance to-

The Secretary to the Governor ,
All Departments of the Secretariat (except the Separate Department).

By order of the Governor of Bombay,

Sd.-

For Chief Secretary to the Government of Bombay,
Political and Services Department.

K.H.P.
23/5
4.C.

Below copy of a letter from the Secretary, Bombay-Sind Public Service Commission, No.517, dated the 21st December 1940.

---x---

No.1713/34-D.
Political and Services Department
Bombay Castle, 20th June 1940.

Forwarded to all Departments of the Secretariat (except the Separate Department) with a request that when consulting the Public Service Commission in connection with appointments by promotion of officers from a lower service or group of posts to a higher service or post, that body should in each such case be supplied with a complete and up-to-date seniority list of officers belonging to the service or group of posts from which the promotion is to be made.

2. The Departments are requested to issue the necessary instructions to the Heads of Departments under them in order to ensure that the required lists are available.

By order of the Governor of Bombay,

Sd.-

For Chief Secretary to Government of Bombay,
Political and Services Department.

Copy forward for information to

The Secretary, Bombay-Sind Public Service Commission,

The Commissioner of Labour, Bombay,

The Labour Officer, Bombay.

K.N.P.
23/5
4.C.

Copy of a letter from the Secretary, Bombay-Sind Public Service Commission, No.517, dated the 21st December 1940 .

Subject:- Promotions from Subordinate to Gazetted posts.

-x-

I am directed to state that, as in accordance with the instructions issued in Government endorsement No. 1713/34-D, dated 30th August 1937, the Commission have to examine and consider the claims of all officers, and not only of the particular officer or officers whom the Secretariat Department nominate for promotion, they consider it necessary that a seniority list of officers serving in the subordinate services should be forwarded to them. I am accordingly to request you to instruct the Secretariat Department to forward to the Commission an up to date printed seniority list whenever proposals are forwarded to the Commission.

....

K.N.P.
23/5
4.C.

SCHEDULE III

(Rule 5.

Services and posts to which recruitment shall be made by promotion.

Revenue Department.

1. Deputy Collectors.
2. Mamlatdars.
3. District Inspectors of Land Records,
4. Bombay Forest Service, Class I.
5. Bombay Forest Service, Class II.
6. Bombay Agricultural Service, Class I.
7. Bombay Agricultural Service, Class II.
8. Other posts in the Agricultural Department which have been graded as Provincial
9. Bombay Veterinary Service, Class I.
10. Bombay Veterinary Service, Class II.
11. Assistant Registrars of Co-operative Societies.
12. Special Auditors of Co-operative Societies.
13. Sub-Registrars, Bombay .
14. Superintendents of Excise (including the Personal Assistant to the Commissioner of Excise)
15. Deputy Superintendent, Bombay City and Harbour Veterinary Department.
16. Manager, Government Photo Registry, Poona.
17. Assistant Secretaries to Government, Revenue Department.

Home Department.

18. Registrar, Presidency Magistrates Courts, Bombay.
19. Deleted.
20. Registrar, Small Cause Court, Bombay.
21. Registrars, Small Cause Courts at Poona and Ahmedabad.
22. Deputy Superintendents of Police.
23. Superintendents, Bombay City Police Force.
24. Non-I.M.S. Superintendents of Central Prisons.
25. Non-I.M.S. Superintendents of Prisons other than Central Prisons.
26. Oriental Translator to Government.
27. Assistant Secretaries to Government, Home Department.
28. Assistant Backward Class Officers.
29. Superintendent, Backward Class Officer's Office.
30. Inspector of Certified Schools.
31. Superintendent, Finger Print Bureau.

General and Educational Departments.

32. B.M.S. Class I, Divisions I and II.
33. B.M.S. Class II.
34. Lecturers in Bacteriology and Pathology at the B.J. Medical Schools, Poona and Ahmedabad.
35. Chemical Analyser to Government.
36. Non-I.M.S. Director of Public Health.
37. B.E.S. Class I (Men's Branch and Women's Branch).
38. B.E.S. Class II (Men's Branch and Women's Branch).
39. Assistant Professor of Architecture.
40. Teacher of Drawing, Sir, J.J.School of Art.
41. Teacher of Normal Class, Sir J.J.School of Art,
42. Superintendent, Keay Art Workshops, Sir J.J.School of Art
43. Consulting Surveyor to Government.
44. Assistant Consulting Surveyor.
45. Deputy Assistant Consulting Surveyor.
46. Senior Assistants in the Town Planning and Valuation Department.

47. Assistant Secretary to Government, General and Educational Departments.
48. Superintendent, Government Printing and Stationery, Bombay.
49. Manager, Government Central Press.
50. Manager, Yeravda Prison Press.
51. Manager and Assistant Manager, Government Photosince Press, Poona.
52. Warden and Assistant Warden, Weights and Measures.

Public Works Department.

53. B.S/E. Class I.
54. BB.S.E.Class II.
55. All posts in the P.W.D. Specialist Branches (on contract or otherwise) except Temporary Engineers on annual sanction, which have been graded as Provincial.
56. Assistant Secretary to to Government, Public Works Department.

Political and Services Department.

57. Chief Inspector of Factories.
58. Senior Inspectors of Factories.
59. Chief Inspector of Steam Boilers and Smoke Nuisances.
60. District Labour Officer Bombay.
61. Assistant Labour Officer, Bombay.
62. Assistant Commissioners of Labour
63. Assistant Secretary to Government, Political and Services Department.

Finance Department.

64. Assistant Secretary to Government, Finance Department,

Legal Department

65. Assistant Secretaries to Government, Legal Department,
66. Personal Assistant to the Remembrancer of Legal Affairs.
67. Assistant Secretary to the Bombay Legislative Assembly.

****

K.H.P.
23/5
4.C.